# STATEMENT OF

# MARK RUBIN

# DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS

# WESTERN WIRELESS CORPORATION

# RURAL UTILITIES SERVICE

# U.S. DEPARTMENT OF AGRICULTURE

# " BROADBAND ACCESS AND DEPLOYMENT IN RURAL AMERICA "

# June 27, 2002

Western Wireless Corporation

3650 131st Avenue SE, Suite 600
Bellevue, Washington 98006
425-586-8736

401 9th St., NW, Suite 550
Washington, DC 20004
202-654-5903

Secretary Veneman, Administrator Legg, Deputy Administrator Purcell, Deputy Administrator Claffey, I congratulate you and your staff for convening today's broadband forum. I applaud the swiftness with which the RUS is acting to craft rules to promulgate the broadband loan provisions of the 2002 Farm bill. I especially appreciate the opportunity to address a subject that is not only of great interest to the Administration and the Department of Agriculture, but also a subject that is critically important to the business mission of my company, Western Wireless Corporation.

**BACKGROUND**

Western Wireless has built a successful business based upon providing wireless telephone service in areas of the country that are under penetrated or neglected by others. We have a single focus: to serve the telecommunications needs of rural America. The company holds cellular licenses to provide service in 19 western states, which include more than 85 Indian reservations and Native American communities. The company is the second largest wireless carrier in the country based upon geography served with its cellular licenses covering about 25 percent of the land in the continental U.S. With a service area that has an average population density of approximately eleven people per square mile, Western Wireless serves

many areas that do not have access to basic telephone service, much less advanced telecommunications services.

Western Wireless has a long history of providing service to unserved and underserved consumers. In 1994, through a unique arrangement with the Nevada Public Utilities Commission and the incumbent local exchange carrier (ILEC), Western Wireless began providing wireless local loop service to small businesses and residential consumers in a remote area of Nevada that did not have access to wireline local telephone service. In 1999, Western Wireless began offering wireless local loop service in Regent, North Dakota, a community of less than 300 people, which represented one of the first competitive local telephone service offerings in rural America and made available new and innovative services to consumers. More recently, Western Wireless has introduced competitive universal service offerings in more than 140 rural communities in Minnesota, Nevada, Kansas, Texas, and the Pine Ridge Reservation in South Dakota. Prior to our entry into the local telephone market in these rural areas, the benefits of competition, including access to new and innovative services, such as high-speed data services and other advanced services remained merely a hope for consumers and policymakers alike.

**WIRELESS' ROLE IN THE RURAL LANDSCAPE**

There was a time, not so long ago, when many questioned whether wireless telephone service in rural America would be viable. The RUS should be congratulated for its recent decision recognizing commercial mobile radio services (CMRS) as a viable alternative to wireline telephony for the purposes of receiving loan support. I would encourage you to follow a similarly supportive path when crafting the rules for the Farm Bill broadband provision.

It is widely recognized that wireless service holds the key, not only to the deployment of basic services to all Americans, but also to the availability of advanced services in rural America. Currently, advanced telecommunications services are available to a small segment of the population in rural areas. Advances in wireline technology will undoubtedly close the "digital divide" with respect to some consumers, but many rural wireline consumers are likely to remain on the wrong side of the "digital divide." Until recently, there was little promise for these consumers. Advances in wireless technology will now provide many of these rural consumers access to advanced telecommunications services for the first time.

In many respects, telecommunications service in rural America mirrors service in urban America. For example, throughout the U.S., wireless penetration continues to rise, customers are using more and more minutes, and rates are declining. On the other hand, service to rural America, in many cases, poses unique challenges. There is a very real opportunity, however, for wireless in rural America to expand its penetration, serve more wireless subscribers roaming into rural areas, and compete with wireline providers by serving the underserved, the unserved and the people who rightly expect more options, excellent service, and advanced service capabilities. No doubt, there are some rural areas that have better service and more competition than urban areas. Broad generalities based upon artificial assumptions and definitions should be rejected. Rural and urban consumers, however, share a desire for access to high-quality advanced telecommunications services, and therefore there should not be disparate regulatory treatment between urban and rural carriers, absent data fully supporting differing regulatory approaches.

## THE DEPLOYMENT AND BENEFITS OF BROADBAND ACCESS

Over the past few years, Western Wireless has aggressively pursued entry into the universal service market, thereby allowing the company to serve the basic and advanced communications needs of rural consumers. Building upon that successful model, Western Wireless successfully demonstrated last July the capabilities of the next generation of wireless digital technology in a trial in Terry, Montana, where data speeds up to 160 Kbps were achieved using 1XRTT (CDMA) technology. Terry is a community of 650 people, 180 miles east of Billings. Prior to the trial, the residents of Terry could only use dial-up access to the Internet. The 1XRTT service provides an "always on" service similar to DSL or cable modems that are available in many larger cities. As Senator Burns said at this demonstration, "there is a lot of dirt between light bulbs in eastern Montana." The availability of high-speed wireless Internet access allows small businesses to remain in towns like Terry, thereby sustaining Terry's unique character and economic viability. Western Wireless is in the process of deploying this technology into its network and will commercially launch the high-speed data services in other markets as soon as practicable. Further, as 3rd generation wireless technology becomes commercially available, data rates of more than 600 Kbps is envisioned.

You might also be interested to know that as we sit here today, more than three thousand members of the Oglala Sioux Tribe on the Pine Ridge Indian Reservation in South Dakota have telephone service, including access to emergency 911 services, in their homes for the very first time because of a unique cooperative arrangement between Western Wireless and the Oglala Sioux Tribe. Specifically, in August 2001, Western Wireless entered into a historic agreement called *Tate Woglaka* (Talking Wind) with the Oglala Sioux Tribe on the Pine Ridge reservation. The purpose of Tate Woglaka agreement was to build a state-of-the-art telecommunication infrastructure necessary for economic and social development. The Pine Ridge is a very rural, economically depressed area lacking many of the basic necessities of life, including affordable telecommunications services. In fact, the Census Bureau identifies Shannon County consistently as the one of the poorest counties in America**.**

## UNIVERSAL SERVICE: THE ROLE OF COMPETITION & THE NEED FOR A LEVEL PLAYING FIELD

The principal factor in predicting whether broadband and advanced wireless services will be available to all consumers, especially those in rural areas, is the availability of network facilities capable of supporting high-

speed data services. Today, the facilities-based service providers in rural areas include ILECs, cellular and PCS service providers, cable operators, and satellite system operators. Until recently, financial support in the form of universal service was made available only to the ILEC with the hope that this carrier would provide basic and advanced communications services that consumers want. It has become clear that competition is the best way to spur innovation and the delivery of new services to all consumers.

To allow rural consumers to realize the benefits of access to telecommunications services typically available in urban areas, policy makers, regulators, and loan application reviewers must make decisions that are technology-neutral so that competitive carriers and ILECs alike have access to the same levels of loan funding and subsidy. Although Western Wireless has a great deal of respect for the role that rural wireline companies have played in bringing basic and advanced services to many remote areas, it is our firmly held view that outdated implicit universal service support mechanisms, such as access charges, must be reformed and replaced with explicit, portable universal service funding mechanisms. Multi platform competition will only emerge, and consumers will only realize the benefits of competition, when federal and state officials ensure that all service

providers can compete on an equal and level playing field for government loan or subsidy programs.

Western Wireless believes that it should be presumed that a rural area already serviced by an ILEC could sustain competition until solid economic rebuttal evidence is presented. In fact, this is exactly the analysis that the Federal Communications Commission employed last year when they designated Western Wireless an Eligible Telecommunications Carrier (ETC), pursuant to Section of 214(e)(6) of the Communications Act, for the purposes of serving the Oglala Sioux. Additionally, fourteen state commissions have found it to be in the public interest to designate Western Wireless as an ETC.

I would respectfully submit that one should pay no heed to the fanciful and repeated suggestions advanced by some in the rural phone industry that competitive carrier entry into these markets will lead rural phone companies to abandon rural markets. There is no evidence that these companies are even considering leaving these markets, even where competitive carriers have been designated to receive universal service support in the service area. This is true even where competitive carriers

have received ETC designation and have begun to serve customers. Ironically, the ILECs threaten to abandon the market at the same time they claim new entrants will leave consumers high and dry after the purported "windfall" support decreases or disappears. To date, competitive carriers like Western Wireless and others have done nothing but express eagerness to serve markets, on the same competitive footing, as the incumbent phone company. In any case, any real risk of an ILEC leaving the market, as well as any suggestion that a non-incumbent is gaming the system, should be dealt with on a case-by-case basis when – and if – it happens. Technology-neutral loan criteria and subsidy policies must not be thwarted or delayed by chimerical ILEC speculation.

## BROADBAND SERVICES SHOULD NOT BE INCLUDED IN THE DEFINITION OF UNIVERSAL SERVICE

Western Wireless strongly supports the goal of connecting consumers to the Internet and facilitating the provision of high-speed data services. Western has argued at the FCC, however, that it would be premature and inappropriate for the government to mandate specific broadband services for higher bandwidth functionality, as part of a universal service offering. Moreover, mandating exceptionally high speeds and/or increasing universal

service funds to support deployment of broadband capabilities, for subsidies or loans, would involve government selecting which of many possible advanced broadband services would be given preference (and potentially depressing demand for – and investment in – other broadband services.) Technology neutrality and funding support portability will ensure that competition is not precluded in rural America. Competition, rather than regulatory fiat, is the best means of incenting carriers to offer new and better services in response to consumer demands.

This already appears to be happening to a significant extent with respect to broadband services. Moreover, section 254(c)(1)(B) of the Communications Act clearly indicates that Congress did not intend universal service policy to be used to stimulate deployment of new technologies and services. Rather, Congress intended that "the operation of market choices by customers" will be the primary driver of the deployment of new services, and that the universal service program would support affordable access only to those services that have already "been subscribed to by a substantial majority of residential customers[.]"

The entry of competitive carriers, and concurrent advancements in technology, will give consumers the necessary leverage to drive the availability of advanced telecommunications services to all consumers, thus fulfilling the Telecommunications Act of 1996's promise. Policy and decision makers should also be wary of ILEC suggestions to add to the definition of universal service a whole host of obligations that are relics of the wireline monopoly era and are arguably bold efforts to circumvent the regulatory protection (entry and rates) the Congress purposefully bestowed on the CMRS industry in Section 332©(3) of the Communications Act.

**CONCLUSION**

Competition, not paternalistic and protectionist regulation, holds the key to the deployment of high quality telecommunications services – regardless of where it is offered. Government should ensure a level playing field through the establishment of a competitive universal service system, a comprehensive spectrum allocation policy, reasonable and technologically neutral market-entry incentives, evenhanded loan criteria and funding to provide advanced services in rural America, and strong enforcement action against anti-competitive behavior by incumbent carriers. In so doing, the

goals of the 2002 Farm Bill and the Telecommunications Act of 1996 will be fulfilled and the “digital divide” will be eliminated.


## The Western Wireless Story

Western Wireless' entry into the local telecommunications market reflects a building block approach to the provisioning of advanced telecommunications services in rural America. Today, Western Wireless provides service (*d.b.a. Cellular One*) throughout the more than 140 rural service areas and small metro areas licensed to the Company covering approximately 25% of the geography of continental United States. The Company has expanded its service offerings to include residential phone service (RPS) in rural areas by using its existing cellular network infrastructure, including switching, high-bandwidth network facilities, cell sites, and wireless local loops (WLL), to provide new and innovative local telephone services, including universal telephone service, to consumers. The expansion of its service offerings in rural areas to provide WLL and universal service enables Western Wireless to offer consumers advanced telecommunications services, including high-speed data services, using 3rd generation cellular technology.

**Wireless (Cellular) Telephony Service Provider**

- Rural service provider in 19 western states **(AK, AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, SD, TX, UT, WY)** (http://www.wwireless.com).
- State-of-the-art telecommunications infrastructure in rural areas.
- Planned deployment of 2.5 generation and 3rd generation technology capable of delivering advanced telecommunications services, including high-speed data services.

**Universal Service & Wireless Local Loop Provider**

- ETC status granted in 14 states **(CA, CO, IA, KS, MN, NE, NM, NV, ND, OK, SD, TX, UT, WY)** and one Indian Reservation (Pine Ridge in South Dakota).
- Serving over 140 markets in 5 states (KS, MN, NV, TX, Pine Ridge), with thousands of universal service customers.
- Industry leader in the deployment of wireless local loop service in rural America.
- Sole provider of local telephone service to the residents of many rural areas.